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In re Application of  
NAKAMURA, Masahi et al.  
Application No.: 09/889,380  
PCT No.: PCT/JP00/08112  
Int. Filing Date: 17 November 2000  
Priority Date: 17 November 1999  
Attorney Docket No.: 450106-02849  
For: DIGITAL SIGNAL PROCESSING  
APPARATUS AND METHOD

DECISION ON  
PETITION  
UNDER 37 CFR 1.181

This decision is in response to "Petition to Withdraw Notification of Missing Requirements," filed on 22 October 2001, in effect asking that the Office vacate the Notification of Missing Requirements. No petition fee is due.

**BACKGROUND**

On 17 November 2000, applicants filed international application PCT/JP00/08112. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 May 2001. The deadline for entry into the national stage in the United States was twenty months from the priority date, or 17 July 2001.

On 16 July 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation.

On 28 August 2001, the USPTO mailed a NOTICE OF DEFECTIVE TRANSLATION (Form PCT/DO/EO/913) noting that the number of claims in the translation did not match the number of claims in the international application and a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date were required and noting that the translation filed with the application was defective.

On 22 October 2001, applicants filed "Petition to Withdraw Notification of Missing Requirements," accompanied by, *inter alia*, a copy of the postcard receipt from the 16 July 2001 filing.

On 14 November 2001, the Office mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that a translation of the application into English and the processing fee for late filing of the translation were required.

On 14 December 2001, applicants filed "No Fee Petition to Withdraw Notification of Missing Requirements," indicating that it was in reply to the Notification of Defective Response mailed 14 November 2001.

### DISCUSSION

MPEP at section 503 states, in part:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

The postcard receipt lists, *inter alia*, "Application for Patent, including 31 pages Specification 24 Claims" and a declaration. The postcard receipt is date stamped and marked with the application serial number. The postcard receipt is not annotated to indicate that any of the items were not received.

The postcard receipt is adequate evidence that a patent application with 31 pages of specification and 24 Claims and a declaration were filed on 16 July 2001.

A search of the file jacket revealed an executed declaration in the file, date stamped 16 July 2001. Further, with the 22 October 2001 filing, applicants provided "a copy of the application papers filed, including the date-stamped receipt postcard..." The translation submitted with the petition is accepted as a true copy of what was originally filed on 16 July 2001.

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 28 August 2001 is **VACATED**.

The NOTICE OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) mailed 14 November 2001 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a new Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 16 July 2001.



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